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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,986	05/02/2006	Qingian Zeng	60,469-097; OT-5220	4969

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EXAMINER	
KRUER, STEFAN	

ART UNIT	PAPER NUMBER
3654	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/577,986	ZENG ET AL.	
	Examiner	Art Unit	
	Stefan Kruer	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 December 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *4, 6 - 7, 9 - 11 and 12 - 19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *4, 6 - 7, 9 - 11 and 12 - 19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 May 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *SNOV09*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7 and 13 - 16 remain rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7, in Line 11, still recites the limitation "said" in "said slot". There is insufficient antecedent basis for this limitation in the claim.

All claims should be revised carefully to correct all other deficiencies similar to the ones noted above.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4, 6 - 7, 9 and 11 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Tominaga et al (JP 05246658 A).

Re: **Claims 6 - 7 and 4**, Tominaga et al disclose an elevator car assembly (Fig. 3) comprising:

- a frame (including 1, 2 and 4 - 5), including a plurality of uprights (4) and a plank beam (1) between said uprights, and
- a platform (2) adjustably supported (by 3) upon said frame, said platform being selectively adjustable relative to said frame to select an amount of the platform that is positioned on each of opposite sides of the uprights for balancing said assembly (Abstract);
- at least one brace (7) mounted between said platform and at least one of said uprights, said brace stabilizing said platform in a selected position relative to said plank beam, said at least one brace comprising a plurality of braces mounted in a substantially V-shaped orientation between said platform and

said upright, in which two of the braces are legs of a V (in keeping with "... a substantially V-shaped orientation);

- wherein each of said braces includes a slot (hole for fastener, both depicted, not numbered) and comprises a fastener (depicted not numbered) at least partially received through said slot to secure said brace to said upright (Abstract) by a single fastener; and
- wherein said brace comprises a steel sheet (inherent to flat end portion surrounding slot and fastener).

In reference to the claim language referring to *select an amount of the platform that is positioned on each of opposite sides of the uprights* and *for balancing said assembly*, intended use and other types of functional language must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. In re Casey, 152 USPQ 235 (CCPA 1967); In re Otto, 136 USPQ 458, 459 (CCPA 1963).

Re: **Claim 16**, Tominaga et al disclose wherein said platform has a plurality of layers (1, 2) separated by a plurality of isolation pads (6).

Though Tominaga et al are silent with respect to selectively distribute a platform weight over the plank beam to thereby balance the car assembly, in as much as his platform assembly extends along opposing sides of his vertical upright and his frame comprises a pair of braces (7) on opposing sides of his platform and uprights for stabilization, the construction of Tominaga et al inherently distributes a platform weight over a plank beam.

Re: **Claims 9 and 11**, Tominaga et al disclose an elevator car assembly (Fig. 3) comprising:

- a frame (including 1, 2 and 4 - 5), including a plurality of uprights (4) and a plank beam (1) between said uprights, and
- a platform (2) adjustably supported (by 3) upon said frame, said platform being selectively adjustable relative to said frame to select an amount of the platform that is positioned on each of opposite sides of the uprights for balancing said assembly (Abstract);
- at least one brace (3) mounted between said platform and at least one of said uprights, said brace stabilizing said platform in a selected position relative to said plank beam, said at least one brace including a slot (12) near an end (right side) of said brace that cooperates with said platform such that said end is adjustable relative to said platform to alter a position relative to said plank beam,
- said brace includes including a second slot near an opposite end (left side) of said brace that cooperates with said upright such that said opposite end is adjustable relative to said upright to alter a position of said platform.
- including a plurality of fixed length braces (3, opposite side of assembly not shown, alternatively 7) securing said platform in a selected position relative to said frame.

Claims 13 – 14 and 17 - 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tominaga et al in view of Norman (2,085,227).

Re: **Claim 13**, Tominaga et al disclose a slot; however, Tominaga et al are silent with respect to their slot having a dimension that permits their brace to be longitudinally moveable relative to their fastener.

Attention is directed to Norman who teaches his brace (13, Fig. 1) comprising a slot (26) wherein said slot has a dimension that is larger than a dimension of his fastener (20), enabling his brace to brace to be longitudinally moveable relative to his fastener, therein comprising an inventive feature of "… an adjustable bracket of simple

construction which is readily adapted for supporting various types of devices... wherein the position of the ... supporting surfaces and the spacing of attaching [fasteners] vary considerably" (Page 1, L. 6 – 27).

It would have been obvious to one of ordinary skill in the art to modify the reference of Tominaga et al with the teaching of Norman to provide a slot having a dimension larger than a dimension of a fastener in a longitudinal direction of a brace in order to accommodate variations in required distances intermediate a mounting/supporting surfaces.

Re: **Claim 14**, whereas Tominaga et al are silent respect to their slot having a dimension that permits their brace to be longitudinally moveable relative to their fastener and Norman teaches a brace having a slot dimensioned larger than his fastener, Norman is silent with respect to his brace having a second slot dimensioned larger than a second fastener.

Nevertheless, it would have been obvious to one having ordinary skill in the art at the time that the invention was made to provide the brace of Tominaga et al as modified by Norman with first and second slots dimensioned larger than respective first and second fasters at respective first and second ends of the brace, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of design choice. *In re Leshin*, 125 USPQ 416.

Re: **Claims 17 - 19**, the device of **Claims 7 and 13** would necessarily have to be formed in order to function. It would have been obvious to perform all the method steps of **Claims 17 - 19** when producing the device of Tominaga et al as modified by Norman above, in a usual and expected fashion, in as much as the method claims recite no limiting steps beyond assembling and using the components comprising the device to thereby balance a car assembly.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tominaga et al in view of Lemmo (4,044,979).

Re: **Claim 15**, whereas Tominaga et al discloses their braces comprising fixed-length braces mounted to their platform and said uprights, they are silent with respect to their braces being adjustably mounted to said uprights.

Attention is directed to Lemmo who teaches his braces (86, 88) being fixed length braces being adjustable mounted (via 82) to his upright (10, at 52) in order to provide a desired tension to a frame (20) and said upright to maintain a desired attitude of a platform (Col. 2, L. 31 – 39).

It would have been obvious to one of ordinary skill in the art to modify the invention of Tominaga et al with the teaching of Lemmo to provide fixed-length braces being adjustably mounted intermediate a frame and upright for maintaining a desired leveling of a platform for facilitating installation and enabling subsequent adjustment to said leveling, as required.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tominaga et al in view of Jackson et al (4,361,208).

Tominaga et al disclose their platform is adjustable relative to their frame in at least a first direction within a plane of said platform; however, Tominaga et al are silent with respect to their platform being adjustable in a second direction that is not parallel to said plane.

Attention is directed to Jackson et al who teach their platform (122) being adjustable in a second direction (pivoting about 134) that is not parallel to a plane of their platform for feature of portability and near complete assembly at the factory (Col. 1, L. 24- 28).

It would have been obvious to one of ordinary skill in the art to modify the reference of Tominaga et al with the teaching of Jackson et al for facilitation of installation and transport.

Response to Arguments

Applicant's arguments filed 6 July 2009 with respect to **Claims 7, 9 – 10, 13 – 14 and 17** have been considered but they are not found to be persuasive.

The rejections of the previous office action were in response to the claim language. Applicant's arguments with respect to Claims 7 and 13 - 14 are based on the amended claim language applied to the prior art of record; consequently, this office action comprises a detailed response to Applicant's arguments.

With respect to applicant's arguments that the invention of Tominaga et al and Norman lack prima facie case of obviousness, Tominaga et al disclose the additional vertical braces that additional support their frame/plank beam to their uprights, which Norman teach can be modified to accommodate a variety of distances intermediate support/mounting points, if desired.

With respect to the legs of Tominaga not demonstrative of the legs of a V and thereby not anticipating the V-shaped configuration as claimed or of applicant's disclosure, Examiner respectfully disagrees.

With respect to allowing a tilting of a car assembly within a hoistway, wherein said tilting is attributable to a weight distribution, applicant is correct that Tominaga et al discloses the ability to shift his platform/ plank beam in a direction of a longitudinal length of said platform/plank beam, in order to achieve a desired gap between respective sills of his landing and his platform/plank beam; however, such shifting, while maintaining a level of his platform/plank does not preclude any tilting of his car assembly attributable to a weight distribution *during its assembly*. Furthermore, the rejection of Claim 17 was in view of Tominaga and Norman, wherein Norman teaches the slots with fasteners that enable adjustment of a length of engagement/connection of his braces. Additionally, the modification of Tominaga by the teaching of Norman does not destroy Tominaga; rather, afford Tominaga greater "… variability in required distances intermediate mounting/supporting surfaces" [sic] as concluded above.

Finally, with respect to Claim 10 and the teaching of Jackson and the disclosure of Tominaga, the brace (3) of Tominaga is adjustable relative to his upright (in view of 12 and 13) and Jackson teaches his brace "… adjustable in a second direction (pivoting about 134) … for feature of portability…", wherein Tominaga and Jackson are furthermore drawn directly from the art of interest. That a bracket (3) and "door post 4"

are not adjustable to one another is inconsequential to the interpretation of Tominaga and the claim language (note "...a platform adjustably supported upon said frame, said platform being selectively adjustable relative to said frame to select an amount of the platform that is positioned on each of opposite sides of the uprights...".

Finally, with respect to applicant's information disclosure statement, the reference of Sanao (JP 2002 087737) in view of the claim language is noted.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suchodolski et al (5,325,937) and Himes (1,907,967) are cited again for isolation and balancing of elevator car assemblies, respectively.

Weaver (2,914,286), Santo (3,356,329), Obara (JP-06080358A) and Muramatsu et al (JP-52047246A) are cited for:

- adjustable braces having slots of including a fastener that is at least partially received through said slots to secure said brace, said slot having a dimension that is larger than a dimension of said fastener to permit said brace to be longitudinally moveable relative to said fastener into a selected position,

- adjustable braces having slots of including a fastener that is at least partially received through said slots to secure said brace to the other of a platform or a first upright, said slot having a dimension that is larger than a dimension of said fastener to permit said brace to be longitudinally moveable relative to said fastener,
- balancing of an elevator car assembly, and
- an elevator car assembly comprising a plurality of braces mounted in a V-shaped orientation intermediate an upright and platform, wherein said braces are adjustably mounted to a platform/plank beam, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen, can be reached on 571.272.6952. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

/Stefan Kruer/
Examiner, Art Unit 3654
21 May 2010

/John Q. Nguyen/
Supervisory Patent Examiner, Art Unit 3654